



House of Representatives

Thirteenth Northern Marianas Commonwealth Legislature
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*Health and Welfare
Public Utilities, Transportation and Communications*

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Applications for Consent to)	IB Docket No. 02-111
)	
Transfer Control Filed by)	
)	
BELL ATLANTIC NEW ZEALAND)	
HOLDINGS, INC.)	
)	
And)	
)	
PACIFIC TELECOM, INC.)	
)	
Petition of Pacific Telecom, Inc.)	File No. ISP-PDR-20020411-00013
For Declaratory Ruling Allowing)	
Indirect Foreign Ownership)	

**PETITION OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH
OF THE NORTHERN MARIANA ISLANDS TO DENY**

The Application filed by Bell Atlantic New Zealand Holdings, Inc. ("BANZHI") and Pacific Telecom, Inc. ("Pacific"), to transfer control of Federal Communication Commission ("FCC") licenses and authorizations held by Micronesian Telecommunications Corporation ("MTC") and its wholly owned subsidiary GTE Pacifica, should be denied.

The Proposed Transaction Should Be Denied Under Section 310 of the 1934 Act

- In its Applications, Pacific seeks a ruling from the FCC that indirect foreign ownership of 72.1%, resulting from its acquisition of MTC and its subsidiary GTE Pacifica Inc., is justified under Section 310(b) of the Communications Act of 1934, as amended (“1934 Act”). The Applications seek additional authorization to expand this foreign ownership level to 87.1%.
- Section 310(b) prohibits ownership of a radio license by any corporation directly or indirectly controlled by any other corporation of which more than 25% of the stock is foreign held, absent a waiver from the FCC. 47 U.S.C. § 310(b). The FCC may grant a waiver of the 25% foreign indirect ownership limit upon a demonstration that such would be in the public interest.
- The public interest mandates denial of the requested ruling waiving the 25% ceiling. The reasons are numerous and compelling.
 - The requested foreign ownership levels of 72.1%, with authority to expand this to 87.1%, are extraordinarily high. In the Post-September 11, 2001 environment, this is more than sufficient reason to deny the request.
 - The nature and scope of the facilities involved in a distant U.S. commonwealth strongly dictates against the requested ruling. MTC’s existing telecommunications network is all-encompassing, entailing critical sole-source facilities, including monopoly landline local exchange and off-island interexchange facilities, satellite earth station facilities, a submarine cable, wireless services and Internet facilities. Virtually no competitive alternatives to these services and facilities exist, distinguishing it radically from the competitive markets in the mainland U.S. Foreign ownership of these sole-source facilities raises critical national as well as local security issues.
 - The strategic geographic location of the CNMI suggests that the public interest would be best served by denial of the waiver. Given its proximity to Pacific Rim nations, the CNMI is uniquely and strategically important to the U.S. in maintaining peace and freedom in the region. It is possible that the U.S. military may have a future need to undertake strategic military operations dependent upon the CNMI’s strategic location and, for this reason, prudence strongly suggests that foreign ownership of the CNMI telecommunications network may not serve U.S. interests. At a minimum, close consultation with the U.S. armed services and U.S. Department of Defense is required to identify key U.S. interests and future plans.
 - The September 11, 2001 experience underscores the need for the federal government to pay particular attention to protecting critical communications infrastructure facilities. According to FCC Commissioner Michael Copps, “Recent events do not change what the public interest is, but they do focus us on the most fundamental pillar of the public interest, which is the safety and security of the people.” Michael Copps’ Speech to the United States Telecommunications Training Institute (September 28, 2001). Considerations associated with the post-September 11, 2001 environment strongly suggest that now is not the time to authorize what is potentially the largest percentage foreign ownership exception ever under Section 310 of the 1934 Act.

- The proposed sale also reveals that Prospector Investment Holdings, Inc was established in the Cayman Islands as an investment arm of Citadel Holdings Inc, of the Philippines. The Cayman Islands incorporation was made solely for this investment. First and foremost, there is a compelling question as to the motive behind why the above company opted to incorporate in the Cayman Islands when the company to be acquired is in the Northern Mariana Islands. Second, there is great concern that the foreign ownership and the fact that PTI is made up of various trusts and holding companies in countries where CNMI laws may not have any legal jurisdiction, thus making auditing and other financial matters difficult if not impossible.
- In short, authorizing up to 87.1% foreign ownership of the CNMI telecommunications system would yield control over these sole-source facilities to non-U.S. interests. In the event of an international or regional crisis (more foreseeable now than before September 11, 2001), non-U.S. ownership of these critical telecommunications facilities has the potential to jeopardize U.S. national interests.

The Proposed Transaction Would Jeopardize Rate Integration in the CNMI

- Section 254(g) of the Communications Act of 1934, as amended, requires long distance telecommunications providers offering service to subscribers in rural and high cost areas (such as the CNMI) to do so at rates no higher than those charged by such providers to their subscribers in urban areas. 47 U.S.C. §254(g).
- Rate integration has proven enormously beneficial to the CNMI since being officially implemented in 1997. When the policy was first implemented, MTC reduced its outbound long distance calling rates to the mainland U.S. substantially. These reductions have benefited CNMI consumers and businesses, and have promoted closer economic and political integration between the CNMI and the mainland U.S.
- Under the seller's current corporate structure (*i.e.*, that of Banzhi, a Verizon company), the company has substantial operations both in the mainland U.S. and, through MTC and Verizon Pacifica, in the CNMI, facilitating easy rate integration. Indeed, Verizon off-island rates to the mainland U.S. appear to serve as the guiding rate for other smaller competing carriers offering off-island service to the mainland from the CNMI and Guam.
- Under the proposed transaction, Pacific would have no affiliated mainland U.S. operations (it would only operate in the CNMI and, to a more limited extent, in Guam) into which rates could be directly integrated.
- Were the proposed sale to occur, a risk exists that the current guiding rate would be lost and off-island rates from the CNMI and possibly Guam to the mainland U.S. would fluctuate upwards without restraint. This would threaten the very core of rate integration as mandated by the 1996 Act.

The Applications Contain Insufficient Information to Justify Approval

- The Applicants seek general authorization to expand the foreign ownership from 72.1% to 87.1%. No definitive information is supplied as to which foreign interest(s), including whether they are World Trade Organization members, would take this additional 15%.

- THC Communications Corp., which would hold a 30% position in Pacific, is 7% foreign controlled, according to the Applications. This appears to indirectly result from beneficial ownership held in a large number of Tan Family trusts. Copies of the trust agreements are not supplied. No independent means exists to verify the 7% foreign ownership figure here, resulting in an alleged 2.1% foreign ownership position being brought by THC.
- Copies of the purchase agreement(s) are not supplied.
- Pacific's Applications on their face fail to provide information showing that Pacific is technically qualified to operate the radio stations involved under the 1934 Act. One of the shareholders, Prospector Investment Holdings, Inc. ("Prospector"), claims to have technical experience through its interest in ISLACOM which provided diverse telecommunications services in the Philippines until 1999. ISLACOM, however, was sold in 1999. Thus, this expertise is no longer possessed by the majority shareholder, Prospector, nor indirectly by the purchaser, Pacific. Moreover, to the extent that any former ISLACOM employees remained with Prospector, telecommunications technology has advanced and changed so rapidly since 1999, that such knowledge would be largely outdated in today's marketplace. Therefore, information showing technical qualification, if it exists, needs to be supplied.

V. CONCLUSION

For the foregoing reasons, the Commission must deny the Petition and the Applications, or alternatively designate for hearing.

Respectfully submitted,

/s/ Rep. Gloria Dlc. Cabrera

/s/ Rep. Stanley T.Torres

/s/ Rep. Jesus T. Attao

/s/ Rep. Benjamin B. Seman

/s/ Rep. Andrew S. Sala

/s/ Rep. Joe P. Deleon Guerrero